**UK EITI Contract and Licence Transparency subgroup meeting, Wednesday 4th September 2024 via Microsoft Teams**

**Attendees:**

Mike Earp (NSTA) Nick Everington (TCE)

Johann MacDougall (Scottish Government) Mark Wrigley (TCE)

Mike Nash (DESNZ, UK EITI Secretariat, Chair)

**Main points and actions from the April 2024 meeting:**

* ***UK Secretariat to provide first draft of paper for tabling at an MSG meeting in the Summer. The paper will set out the rationale for non-disclosure of data due to legal barriers and commercial sensitivity issues for each authority. Draft to be circulated for comment to subgroup members for further input. Include an example of licence and contract with redaction, if possible.***
* Paper drafted and circulated to subgroup for input and comment. Still awaiting final text from TCE and Coal Authority. Need to get to MSG by 28th November meeting to ensure that we can carry out the necessary work in time for the validation. MSG to review and consider and see if they agree there are bona fide legal barriers to full contract disclosure.

If the MSG agree there are legitimate barriers, the MSG will still need a plan to try to address them to be fully compliant with Requirement 2.4.

TCE have had discussions with their lawyers around the issue of competition risk. There is a risk that sharing the data required by the EITI Standard will reduce competition in the market and there are also issues around compliance with The Crown Estate Act, which requires TCE to achieve “best consideration” i.e. highest value that is reasonably achievable. The ability to do this could be restricted if licences are disclosed. TCE are keen to comply with the EITI Standard, but the requirements of The Crown Estate Act override that of the EITI Standard.

**(Actions: Coal Authority and TCE to provide updated text for the MSG paper in time for the 12th November subgroup meeting and TCE to provide redaction example, if possible).**

**Requirements of the EITI Standard**

The following requirements to the EITI Standard were discussed:

**2.2a) Implementing countries are required to disclose information related to all contract and license awards and transfers taking place during the accounting period covered by the most recent EITI disclosures, including for companies whose payments fall below the agreed materiality threshold. This must include:**

**i. A description of the process for transferring or awarding the license.**

**ii. The technical and financial criteria used, including any requirements related to free, prior and informed consent. Where the process for awarding or transferring a license mandates consultations with impacted communities, implementing countries and companies are expected to disclose a description of how the consultation process was conducted. This could include the number of people consulted, disaggregated by gender, and a summary of how views on the project’s impacts were collected and considered.**

**iii. Information about the recipient(s) of the license that has been transferred or awarded, including consortium members (where applicable).**

**iv. Any material deviations from the applicable legal and regulatory framework governing license transfers and awards, including an explanation of the methodology adopted for the assessment.**

**The MSG must clearly document the rationale for this choice; the award or transfer processes to which these processes applied; the procedures and criteria used; the institutions involved; and the outcomes of the award and transfer processes.**

The subgroup agreed with the EITI International Secretariat guidance that this is not applicable to the UK. UK oil and gas licences don’t have a consultation process. The description of the process for awarding oil and gas licences is already available online. For mining and quarrying there is no consultation, because there is no monopoly/state mineral owner on land and therefore no defined process for assigning or offering rights. In the main, non-energy mineral ownership rights will go with the land.

**2.2c) Where licenses are awarded through a bidding process, the government is required to disclose the list of applicants, including their beneficial owners in accordance with Requirement 2.5, and the bid criteria.**

The subgroup agreed with the EITI International Secretariat guidance that this is not applicable to the UK. UK licenses are not awarded through a bidding process. There is a licensing round where companies apply with a work programme that is reviewed against a set criteria. TCE will no longer be holding tender rounds in the future. The new process will see companies’ approach TCE with proposals. These proposals will then be assessed by TCE and awarded on that basis.

**Updates from organisations**

TCE will announce their new tender agreements shortly.

The Scottish Government finalised policy position on onshore conventional oil and gas and coal extraction will be published shortly.

**AOB**

The next meeting will take place on 12th November 2024.